EDITORIAL

The National Medical Council Regulations: The Road Ahead

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The National Medical Council (NMC) proposed "Registered Medical Practitioner (RMP) (Professional Conduct) Regulations, 2022" on 23 May 2022. It consists of 6 chapters and 10 guidelines to set standards for the professional conduct of the RMP in the country.[1]

The major regulations that were laid included those relating to Continuing Professional Development (CPD) program and guidelines for the RMP. Since its release on the public domain, thousands of responses from the public, non-governmental organizations (NGOs), doctors, and various professional bodies have been received. There have been some welcome changes along with some suggestions put forward by various national and state organizations. A few salient features have been reviewed by us and compared to the guidelines in other developed countries. The Guidelines have tried to cover a lot of ground, but the Rights of doctors do not find the deserved mention.

The first chapter gives the preliminary definitions and clearly defines an RMP. Chapter 2 talks about the professional conduct of RMPs, etc. It has been proposed that only those registered under the NMC act 2019 can use "Medical Doctor" (or Med Dr) as a prefix.[1] There appears to be a duplication of registration if asked to reregister which may create confusion. Using this prefix is not according to universal standards followed across the world. However, NMC also makes sure that only the degrees recognized by it shall be used as suffix. So, no one can claim to be a specialist in a stream if they have not done an NMC accredited program. A person qualified in more than one system of medicine should decide which system he wants to practice.[1] Once licensed to practice Modern medicine under NMC Act, he shall not practice another system of medicine simultaneously. The guidelines provide a template for a sample prescription. This ensures uniformity in prescriptions and makes sure that all required information is provided to the patient including dispensing of medications.

The introduction of guidelines on CPD program is appreciated and welcomed. It matches the standards followed universally. Having these pointers will ensure the doctors are being updated regularly and keeping up with the ever so-changing field of medicine. The CPD program organizers are required to provide a completion and feedback report to the Ethics and Medical Registration Board (EMRB)/State Medical Council electronically.[1] This ensures that CPDs serve the intended purpose of learning.

The rights of doctors as described in the NMC guidelines are just brushed upon, whereas all around the world we have seen due importance being given to the rights of doctors. A RMP can refuse to continue to treat a patient if the fees, as indicated, are not paid.[1] This has given the autonomy to the doctor to choose the patient profile that they want to cater to, this reduces the disagreements at the time of treatment. This also ensures that the doctor is not harassed by the patient or his relatives. The much-needed guidelines on the management of disruptive behavior or violent patients would be welcomed. Every doctor has a right to work in a free and safe environment. The American Medical Association (AMA) lays down guidelines regarding violence against doctors and the necessary legal action that would be taken.[2] A clear description of behaviors that would prompt intervention should be mentioned. Providing a channel for reporting such behaviors and support from the State Medical Council is something that would promote a safe working environment. Blacklisting such patients or family members on central database systems will further ensure a safe working place for the doctors. The recent increase in such cases should push the policymakers to ensure the doctor's welfare and any reimbursement of any loss or destruction of property by the patient and their relatives. The South American Medical Association (SAMA) includes the right to freedom, which includes the right to be free from violence.[3]

The government has been promoting generic drug use in order to ensure medical care for all at affordable prices and decrease the conflict of interest. Generic drugs and prescription guidelines need flexibility in prescribing the drugs commonly available or patented by certain pharmaceuticals but at the same time not restricting the patient from buying the equivalent drugs available in the market. By prescribing the generic drugs, the choice of the drug dispensed transfers to the pharmacist from the doctor and the hurdle still persists at the level of dispensing. The introduction of online pharmacies has led to dispensing of medications at their discretion. The addition of a declaration by the RMP in the prescriptions stating that any equivalent drug composition can be dispensed could decrease conflicts. Stringent quality checks for generic drugs need to be stressed, which is especially important in India, where there are no proper regulations on generics. Drug controller general of India (DCGI) has approved certain rational fixed drug combinations and NMC shunning such combinations creates further confusion.

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Restriction on fee splitting and the use of online patient portals is a step in the right direction. Using referral mode at the hospital for fee splitting needs to be clarified. A detailed description, keeping in mind various scenarios occurring at institutions and hospitals should be provided.

Every self-employed RMP shall maintain medical records of patients, both outpatients, and inpatients, for 3 years from the date of the last contact with the patient, in a standard proforma laid down by the NMC.[1] This may be cumbersome and burden the RMPs if all the data pertaining to outpatients needs to be stored. If any request is made for medical records to an RMP responsible for patient records either by the patients/authorized attendant or legal authorities involved, the same may be acknowledged and documents shall be given within 5 working days. However, Mental Healthcare Act (MHCA), 2017 requires the documents to be produced within 15 days.[4] This creates a discrepancy between the MHCA and NMC regulations, MHCA remains applicable for now. The NMC, after due clearance from the union government, should empower the RMPs to collect the identity of each patient for their records.

Within 3 years from the date of publication of these regulations, the RMP shall fully digitalize records, abiding by the provisions of the IT Act, data protection and privacy laws, or any other applicable laws, rules, and regulations notified from time to time for protecting the privacy of patient data.[1] This clause should be preferring the digital mode and not mandate the same. Expenses toward the storage and protection of data will result in a huge overhead expense which will ultimately increase the cost of healthcare and affect the patient. However, having more regulated portals for patient care and electronic data management under the guidance of professional bodies needs to be looked into. In view of cybersecurity, it would be better if the NMC provide or recommend a platform or provide approved lists of platforms. Platforms such as e-manas and Ayushman Bharat Digital Mission already exists and need to be synced with the healthcare system. Ayushman Bharat Health Account (ABHA) number is a hassle-free method of accessing and sharing the health records digitally, it enables interaction with participating healthcare providers. Moreover, E-manas is a similar initiative by the government of Karnataka to digitalize records and patient management systems. These systems can be further upgraded to be user-friendly and help in appointment booking of healthcare professionals at no extra cost.

Chapter 3 entails to duties of RMP. The telepsychiatry guidelines have been revisited. But a look into proxy consultations and covert medication use in psychiatry patients through telepsychiatry is something that needs to be revisited. The potential for psychotropic abuse is high through online pharmacies. A protocol to safeguard this abuse needs to be put in place. The introduction of these foolproof guidelines would further help psychiatrists to prescribe the whole range of psychotropics and thus the patient would benefit from online consultations.

The duties of RMPs toward each other and toward the public are covered under Chapters 4 and 5. Clauses 35 and 37 form the backbone of the NMC regulations. It states that the RMPs and their families must not receive any gifts, travel facilities, hospitality, cash or monetary grants, consultancy fee or honorariums, or access to entertainment or recreation from pharmaceutical companies, commercial healthcare establishments, medical device companies, or corporate hospitals. The RMPs should not be involved in any third-party educational activity such as CPD, seminar, workshop, symposia, conference, etc., which involves direct or indirect sponsorships from pharmaceutical companies.[1] While we understand that the relationship between pharmaceutical companies and the RMPs is a contentious and sensitive one, we must realize that a blanket ban or complete cut-off from interacting with pharmaceutical companies may not be possible. Doctors may be involved in the capacity of an advisor, panelist or for conducting patient-related activities. The time and effort of health care professionals as any other professional is important, hence should be authorized to collect the professional fee for their contribution. Already the income tax department is getting notification regarding the CPD expenditure, provided by the association/organizing committee RMPs and the pharmaceutical company and declaration under section 194R are being done. If the RMP is transparent in his relationship with the pharmaceutical industry, then there is no requirement for Clause 36 asking for a separate declaration. Instead, a declaration from the delegates or organizers regarding no pharmaceutical sponsorship should suffice.

Clause 37 states that EMRB will draft the guidelines/codes etc. on generic drugs and prescription, CPD guidelines and accreditation of organizations, telemedicine guidelines, code of ethics, guidelines on penalties for misconduct including the monetary penalty, advertisement guidelines, end of life guidelines, consent in medical practice, guidelines on research by RMPs, guidelines on social media conduct of RMPs, guidelines on reasonable care, skill and guidelines on interaction with pharmaceuticals, as and when required and amended from time to time by EMRB.[1] This ensures dynamic scope of changes without going through long procedures of approval. This will quicken the process of amending the regulations from time to time, keeping in pace with international organizations.

Professional misconduct has been dealt with in Chapter 6 where NMC lays down the procedure for a complaint. The state has to ensure appropriate medico–legal systems. Providing the necessary free expert legal aid to doctors who are possibly not exposed to the proceedings of such cases can also help in the future. The Australian Medical Council and SAMA have elaborate sections on "right of doctors." They suggest Professional Indemnity Insurance for all doctors, the right of access to the courts, and the right to have their disputes heard in a court of law or any other appropriate forum.[3,5] Right to due process of law in accordance with the constitution when arrested, detained, or accused (Jacob Mathew vs State of Punjab Guidelines laid by Supreme Court to be followed).[6] Doctors have the right to fair remuneration when appearing as a witness in cases. In the Indian context, nothing has been said or discussed about insuring one's practice and the role of the medical council in legal aid to the doctors. However, having no legal counsel to represent in court is a good move. Doctors have a right of access to health care, whenever possible through the state's available resources. Similar practices in the form of insurance and health services for the doctors through state medical councils will benefit not only the doctors but also ensure improved patient care. The doctors have the right to fair labor practices, such as fair dispensations of overtime and leaves. Doctors have the right to work in an environment that is not hostile in terms of sex, gender, orientation or race, or ethnicity. Every doctor has the right to an environment that is not harmful to their health or mental wellbeing, including management of stressful situations and supervision/assistance of junior residents.[3] The compulsory rural postings in the Indian context should ensure the required infrastructure to deliver services.

Guidelines on prescription and generic medications should consider the ground realities such as many medications do not have generic counterparts, the quality control issues with generics, giving the onus of choosing to the pharmacists. It is because of the low cost of generics for which the NMC wants the RMP to prescribe it; for example, Risperidone 2 mg at Jan Ausadhi Kendra is available at ₹0.45, whereas the same when patented is available at ₹5.52 and branded at ₹4.72. The first logical step in providing autonomy to the patient would be to abolish all branded generics. If there are guidelines on medical ethics, guidelines on patients' duties and responsibilities are also necessary. Guidelines on penalties are well elaborative on the levels of penalties, a good description of legal procedures, and legal aid available for such proceedings is the need of the hour. Certification and correct consent procedure importance cannot be further stressed. The NMC provides well-detailed CPD guidelines and revises our telemedicine guidelines.

Regulations are similarly been followed in multiple well-developed countries for years. Everyone, including doctors, patients, pharmaceutical companies, and professional bodies, needs to evolve and adapt to these new NMC regulations. It is high time each one of us should wake up and contribute to this change for the betterment of the larger public. With MHCA's presence came the empowerment of the patients, so we can expect NMC to empower the doctors. Now, after the suggestions and comments on the public portal, we need to wait for the necessary changes, reform, and the final gazette. With Clause 37 in place, NMC would surely come up with constant updates and make these regulations better with the passing of time. With this, we hope to have a medical setup in par with international agencies.

References

1. The National Medical Council. Registered Medical Practitioner (Professional Conduct) Regulations, 2022. Available at: https://www.nmc.org.in/MCIRest/open/getDocument?path=/Documents/Public/Portal/LatestNews NMC%20RMP%20REGULATIONS%202022%20Draft%20Final%20YM.pdf. Accessed on: 1 Aug 2022.
2. American Medical Association. Code of medical ethics: Current opinions. Chicago: AMA Press; 2002.
3. Naidu C. SAMA Insider July 2018. Available at: http://samainsider.org.za/index.php/SAMAInsider/issue/archive. Accessed on: 1 Aug 2022.
4. Mental Healthcare Act. 2017. Available at: https://egazette.nic.in/WriteReadData/2017/175248.pdf. Accessed on: 18 December 2018.
5. Australian Medical Council, on behalf of the medical boards of the Australian states and territories. Good medical practice: a draft code of professional conduct. Canberra: AMC, 2008.
6. Lahoti R. Supreme Court of India. Jacob Mathew vs State of Punjab and ANR on 5 August 2005. Available at: https://indiankanoon.org/doc/871062/. Accessed on: 1 Aug 2022.